

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : NOGUCHI et al. Conf. No. : 8290
Serial No. : 10/583,058 Art Unit : TBA
PCT Appl. No. : PCT/JP2004/18646
Intl. Filing Date : December 14, 2004 Examiner : TBA

For: AKT ACTIVITY SPECIFICALLY INHIBITING POLYPEPTIDE

RESPONSE TO NOTICE OF DEFECTIVE RESPONSE
MAILED SEPTEMBER 7, 2007
AND
REQUEST TO WITHDRAW OR VACATE
THE NOTIFICATION OF ABANDONMENT ERRONEOUSLY
MAILED SEPTEMBER 14, 2007

Mail Stop – PCT
Commissioner for Patents
P. O. Box 1450
Alexandra, VA 22313-1450

Sir:

In timely response to the Notification of Defective Response mailed by the United States patent and Trademark Office (USPTO) on September 7, 2007, Applicants hereby provide the below explanation of the discrepancy between the first name of joint Applicant Hiromura identified in the international application and as it appears in the Combined Declaration and Power of Attorney previously filed on May 10, 2007.

Applicants hereby request that the Notification of Abandonment mailed September 9, 2007 be withdrawn or vacated on the basis that the Notification was erroneously mailed, as discussed in further detail below.

Response to Notice of Defective Response...

No fee is believed to be required for the filing of either the present Response to the Notice of Defective Response and the Request To Withdraw or Vacate the Notification of Abandonment.

EXPLANATION OF APPLICANT NAME DISCREPANCY

Section 1893.01(e), Oath or Declaration, Subsection, Correction of Inventorship, of the Manual of Patent Examining Procedure (MPEP) states, in part, that:

“[w]here there has been no change of inventorship but the name of an inventor indicated in the international application during the international phase has changed such that the inventor’s name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497...where the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 will not be required...Similarly, a typographical or transliteration error in the name of an inventor identified in a previously submitted oath or declaration may be corrected by simply notifying the Office of the error. A new oath or declaration is not required to correct such an error. See MPEP § 201.03 and § 605.04(g).”

In accordance with the above provisions of MPEP Section 1893.01(e), Applicants hereby bring to the attention of the USPTO that during preparation of the international application for filing with the Japanese Receiving Office, a transliteration error occurred when the Chinese character of the first name of third inventor Hiromura’s was misread and incorrectly translated as “Shin” instead of the correct first name of “Makoto”. As such, the name discrepancy between Applicant “HIROMURA, Shin”, as identified in the international application, and Applicant “Makoto Hiromura”, as identified in the previously submitted Combined Declaration and Power of Attorney on May 10, 2007, is only a correction of a transliteration error and is not a change of

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inventorship.

In view of the above explanation, acceptance of the May 10, 2007 Combined Declaration and Power of Attorney for the above-identified US national phase application is appropriate and hereby requested.

REQUEST TO WITHDRAW OR VACATE NOTIFICATION OF ABANDONMENT

The September 7, 2007 Notification of Defective Response, which notified Applicants that “Shin Hiromura did not sign the declaration filed on 20 March 07”, required, in the first paragraph of the second page thereof, Applicants

“to complete the response within a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is longer.”

This ONE MONTH time limit from the September 7, 2007 mailing date of the subject Notification **continues to run until midnight, Tuesday, October 9, 2007** (October 7, 2007 is a Sunday and October 8, 2007 is a federal holiday within the District of Columbia). The maximum available time period for responding to the Notification of Missing requirements mailed January 22, 2007, had already **expired at midnight, Tuesday, July 22, 2007**, more than one month prior to the September 7, 2007 mailing date of the Notification. Since the ONE MONTH time limit expiring **October 9, 2007** was/is longer than the already expired **July 22, 2007** time limit, the correct and effective deadline date for responding to the September 7, 2007 Notification of Defective Response is **midnight, Tuesday, October 9, 2007**.

Response to Notice of Defective Response...


In view of (1) the currently outstanding deadline date of **October 9, 2007**, (2) the Notification of Abandonment having been erroneously mailed before the expiration of the October 9, 2007 deadline date, and (3) the timely filing of the above explanation of the discrepancy the first name of the joint Applicant Hiromura between the international phase application and the previously submitted Combined Declaration and Power of Attorney, Applicant's request that the USPTO withdraw or vacate the September 14, 2007 Notification of Abandonment.

AUTHORIZATION

The Commissioner is hereby authorized to charge any fees which may be required for the consideration of this paper, or credit any overpayment to Deposit Account No. 13-4500, Order No. 4439-4044.

Respectfully submitted,

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